



Sen. Patrick J. Joyce

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10300HB1440sam002

LRB103 03560 RLC 65338 a

1 AMENDMENT TO HOUSE BILL 1440

2 AMENDMENT NO. _____. Amend House Bill 1440, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Unified Code of Corrections is amended by
6 changing Section 5-4.5-110 as follows:

7 (730 ILCS 5/5-4.5-110)

8 (Section scheduled to be repealed on January 1, 2024)

9 Sec. 5-4.5-110. SENTENCING GUIDELINES FOR INDIVIDUALS WITH
10 PRIOR FELONY FIREARM-RELATED OR OTHER SPECIFIED CONVICTIONS.

11 (a) DEFINITIONS. For the purposes of this Section:

12 "Firearm" has the meaning ascribed to it in Section
13 1.1 of the Firearm Owners Identification Card Act.

14 "Qualifying predicate offense" means the following
15 offenses under the Criminal Code of 2012:

16 (A) aggravated unlawful use of a weapon under

1 Section 24-1.6 or similar offense under the Criminal
2 Code of 1961, when the weapon is a firearm;

3 (B) unlawful use or possession of a weapon by a
4 felon under Section 24-1.1 or similar offense under
5 the Criminal Code of 1961, when the weapon is a
6 firearm;

7 (C) first degree murder under Section 9-1 or
8 similar offense under the Criminal Code of 1961;

9 (D) attempted first degree murder with a firearm
10 or similar offense under the Criminal Code of 1961;

11 (E) aggravated kidnapping with a firearm under
12 paragraph (6) or (7) of subsection (a) of Section 10-2
13 or similar offense under the Criminal Code of 1961;

14 (F) aggravated battery with a firearm under
15 subsection (e) of Section 12-3.05 or similar offense
16 under the Criminal Code of 1961;

17 (G) aggravated criminal sexual assault under
18 Section 11-1.30 or similar offense under the Criminal
19 Code of 1961;

20 (H) predatory criminal sexual assault of a child
21 under Section 11-1.40 or similar offense under the
22 Criminal Code of 1961;

23 (I) armed robbery under Section 18-2 or similar
24 offense under the Criminal Code of 1961;

25 (J) vehicular hijacking under Section 18-3 or
26 similar offense under the Criminal Code of 1961;

1 (K) aggravated vehicular hijacking under Section
2 18-4 or similar offense under the Criminal Code of
3 1961;

4 (L) home invasion with a firearm under paragraph
5 (3), (4), or (5) of subsection (a) of Section 19-6 or
6 similar offense under the Criminal Code of 1961;

7 (M) aggravated discharge of a firearm under
8 Section 24-1.2 or similar offense under the Criminal
9 Code of 1961;

10 (N) aggravated discharge of a machine gun or a
11 firearm equipped with a device designed or used for
12 silencing the report of a firearm under Section
13 24-1.2-5 or similar offense under the Criminal Code of
14 1961;

15 (O) unlawful use of firearm projectiles under
16 Section 24-2.1 or similar offense under the Criminal
17 Code of 1961;

18 (P) manufacture, sale, or transfer of bullets or
19 shells represented to be armor piercing bullets,
20 dragon's breath shotgun shells, bolo shells, or
21 flechette shells under Section 24-2.2 or similar
22 offense under the Criminal Code of 1961;

23 (Q) unlawful sale or delivery of firearms under
24 Section 24-3 or similar offense under the Criminal
25 Code of 1961;

26 (R) unlawful discharge of firearm projectiles

1 under Section 24-3.2 or similar offense under the
2 Criminal Code of 1961;

3 (S) unlawful sale or delivery of firearms on
4 school premises of any school under Section 24-3.3 or
5 similar offense under the Criminal Code of 1961;

6 (T) unlawful purchase of a firearm under Section
7 24-3.5 or similar offense under the Criminal Code of
8 1961;

9 (U) use of a stolen firearm in the commission of an
10 offense under Section 24-3.7 or similar offense under
11 the Criminal Code of 1961;

12 (V) possession of a stolen firearm under Section
13 24-3.8 or similar offense under the Criminal Code of
14 1961;

15 (W) aggravated possession of a stolen firearm
16 under Section 24-3.9 or similar offense under the
17 Criminal Code of 1961;

18 (X) gunrunning under Section 24-3A or similar
19 offense under the Criminal Code of 1961;

20 (Y) defacing identification marks of firearms
21 under Section 24-5 or similar offense under the
22 Criminal Code of 1961; and

23 (Z) armed violence under Section 33A-2 or similar
24 offense under the Criminal Code of 1961.

25 (b) APPLICABILITY. For an offense committed on or after
26 January 1, 2018 (the effective date of Public Act 100-3) and

1 before January 1, 2025 ~~2024~~, when a person is convicted of
2 unlawful use or possession of a weapon by a felon, when the
3 weapon is a firearm, or aggravated unlawful use of a weapon,
4 when the weapon is a firearm, after being previously convicted
5 of a qualifying predicate offense the person shall be subject
6 to the sentencing guidelines under this Section.

7 (c) SENTENCING GUIDELINES.

8 (1) When a person is convicted of unlawful use or
9 possession of a weapon by a felon, when the weapon is a
10 firearm, and that person has been previously convicted of
11 a qualifying predicate offense, the person shall be
12 sentenced to a term of imprisonment within the sentencing
13 range of not less than 7 years and not more than 14 years,
14 unless the court finds that a departure from the
15 sentencing guidelines under this paragraph is warranted
16 under subsection (d) of this Section.

17 (2) When a person is convicted of aggravated unlawful
18 use of a weapon, when the weapon is a firearm, and that
19 person has been previously convicted of a qualifying
20 predicate offense, the person shall be sentenced to a term
21 of imprisonment within the sentencing range of not less
22 than 6 years and not more than 7 years, unless the court
23 finds that a departure from the sentencing guidelines
24 under this paragraph is warranted under subsection (d) of
25 this Section.

26 (3) The sentencing guidelines in paragraphs (1) and

1 (2) of this subsection (c) apply only to offenses
2 committed on and after January 1, 2018 (the effective date
3 of Public Act 100-3) and before January 1, 2025 ~~2024~~.

4 (d) DEPARTURE FROM SENTENCING GUIDELINES.

5 (1) At the sentencing hearing conducted under Section
6 5-4-1 of this Code, the court may depart from the
7 sentencing guidelines provided in subsection (c) of this
8 Section and impose a sentence otherwise authorized by law
9 for the offense if the court, after considering any factor
10 under paragraph (2) of this subsection (d) relevant to the
11 nature and circumstances of the crime and to the history
12 and character of the defendant, finds on the record
13 substantial and compelling justification that the sentence
14 within the sentencing guidelines would be unduly harsh and
15 that a sentence otherwise authorized by law would be
16 consistent with public safety and does not deprecate the
17 seriousness of the offense.

18 (2) In deciding whether to depart from the sentencing
19 guidelines under this paragraph, the court shall consider:

20 (A) the age, immaturity, or limited mental
21 capacity of the defendant at the time of commission of
22 the qualifying predicate or current offense, including
23 whether the defendant was suffering from a mental or
24 physical condition insufficient to constitute a
25 defense but significantly reduced the defendant's
26 culpability;

1 (B) the nature and circumstances of the qualifying
2 predicate offense;

3 (C) the time elapsed since the qualifying
4 predicate offense;

5 (D) the nature and circumstances of the current
6 offense;

7 (E) the defendant's prior criminal history;

8 (F) whether the defendant committed the qualifying
9 predicate or current offense under specific and
10 credible duress, coercion, threat, or compulsion;

11 (G) whether the defendant aided in the
12 apprehension of another felon or testified truthfully
13 on behalf of another prosecution of a felony; and

14 (H) whether departure is in the interest of the
15 person's rehabilitation, including employment or
16 educational or vocational training, after taking into
17 account any past rehabilitation efforts or
18 dispositions of probation or supervision, and the
19 defendant's cooperation or response to rehabilitation.

20 (3) When departing from the sentencing guidelines
21 under this Section, the court shall specify on the record,
22 the particular evidence, information, factor or factors,
23 or other reasons which led to the departure from the
24 sentencing guidelines. When departing from the sentencing
25 range in accordance with this subsection (d), the court
26 shall indicate on the sentencing order which departure

1 factor or factors outlined in paragraph (2) of this
2 subsection (d) led to the sentence imposed. The sentencing
3 order shall be filed with the clerk of the court and shall
4 be a public record.

5 (e) This Section is repealed on January 1, 2025 ~~2024~~.

6 (Source: P.A. 102-1109, eff. 12-21-22.)

7 Section 99. Effective date. This Act takes effect upon
8 becoming law.".